

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JACK REESE, JAMES  
CICHANOFSKY, ROGER MILLER, and  
GEORGE NOWLIN, on behalf of  
themselves and a similarly situated class,

Plaintiffs,

v.

Case No. 04-70592

CNH GLOBAL N.V. and  
CNH AMERICA LLC,

Honorable Patrick J. Duggan

Defendants.

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**ORDER DENYING DEFENDANTS' EMERGENCY MOTION FOR  
CLARIFICATION**

On October 31, 2013, this Court issued an Opinion and Order Granting in Part and Denying in Part Plaintiffs' Second Motion for Extension of Scheduling Order and for Immediate Consideration. (ECF No. 372.) On November 26, 2013, Defendants filed an emergency motion seeking clarification of that decision. (ECF No. 375.) Specifically, Defendants seek to clarify whether Plaintiffs' rebuttal expert disclosures are due December 16, 2013. (ECF No. 375.) Plaintiffs filed a response to the motion on December 2, 2013, arguing that the Court's Opinion and Order requires no clarification and that Defendants' motion is untimely. (ECF No. 376.) The Court agrees with Plaintiffs at least with respect to the clarity of the

October 31, 2013 decision.<sup>1</sup>

In its October 31, 2013 Opinion and Order, the Court set forth the scheduling order in effect at the time Plaintiffs filed their motion. (ECF No. 372 at 1-2.) The Court went on to rule that it was granting Plaintiffs' motion to the extent they sought an extension of the scheduling order and the deadlines in the current scheduling order had not passed,<sup>2</sup> but was denying Plaintiffs' motion to the extent they requested an extension of ninety (90) days. The Court limited the extension of the then remaining deadlines to sixty (60) days. Simply, the parties needed to add sixty (60) days to *all* remaining deadlines to understand the Court's decision.

Accordingly,

**IT IS ORDERED**, that Defendants' Emergency Motion for Clarification that Plaintiffs' Rebuttal Expert Disclosures are Due December 16, 2013 is

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<sup>1</sup>As there is no specific rule regarding motions for clarification, it is arguable whether Defendants' motion can be denied simply as untimely. Nevertheless, the Court fails to understand Defendants' delay in seeking clarification when the alleged confusion should have been obvious when the Court's decision was issued almost a month ago. Further, the Court does not look favorably upon the filing of an "emergency" motion where the alleged need for the motion was known well before the date of filing.

<sup>2</sup>As of October 31, 2013, the following deadlines had not passed: (1) reports due from Defendants' experts; (2) discovery and Plaintiffs' rebuttal expert report(s) due; (3) dispositive motion cut-off; (4) dispositive motion(s) response(s) due; and (5) dispositive motion(s) reply brief(s) due. (ECF No. 372 at 1-2.)

**DENIED.**

Dated: December 4, 2013

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Copies to:  
Counsel of Record